

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kelli Williams,)	
)	CASE NO. 5:11 CV 2514
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
Barberton City School District Board of)	
Education,)	
)	
Defendant.)	

The plaintiff, through counsel, filed a complaint against the defendant described as the Barberton City School District Board of Education and alleged jurisdiction of this court based upon an action brought under 42 U.S.C. § 1983. The complaint was filed in the Common Pleas Court of Summit County and removed the defendant to this court.

The plaintiff alleged that she was a licensed social worker employed by the defendant and that her employment was terminated. The plaintiff alleged in part as follows:

13. On May 25, 2011 the Plaintiff was given a spurious performance review by Kovach intended to keep her from qualifying for reemployment [sic] in a new employment contract cycle and in spite of the fact Kovach was not authorized to render performance evaluations of the Plaintiff from August 2010 going forward. The Head Start program operates on a year to year employment contract basis from August to August but over the 12.5 years the Plaintiff was in the program her contract was routinely renewed and she received excellent performance reviews.

14. The Head Start program was not discontinued due to an economic reduction in force at BCSD and is still underway. The real reason for the Plaintiff's termination was that she made complaints in the public interest about the manner and methods used by the Defendant to manage the Head Start program under Kovach.

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15. The Defendant by and through its agents conduct harassing and terminating the Plaintiff's employment was conducted under color of state law to deprive the Plaintiff of her First Amendment Rights related to the petition and freedom of expression guarantees by the First Amendment to the U.S. Constitution and the 14th Amendment Due Process Clause, all actionable under 42 USC 1983.

The Court referred this case to Magistrate Judge George Limbert for pretrial supervision.

On September 27, 2012, Magistrate Judge George Limbert filed a thorough and comprehensive 14-page report, ECF 33, with the following conclusion:

In summary, the undersigned recommends that the Court grant the motion for judgment on the pleadings, ECF Dkt. #23, as Plaintiff has failed to allege sufficient facts to fulfill the *Garcetti* requirement for her public employee First Amendment claim, and, in the alternative, that she has also failed to allege sufficient facts to demonstrate that her alleged protected speech was a substantial or motivating factor in her termination.

Counsel for the plaintiff filed a six-page objection to the Report and Recommendation of Magistrate Judge George Limber. ECF 35.

The Court schedules oral argument with respect to plaintiff's objections to the Report and Recommendation of the Magistrate Judge and schedules the oral argument for Thursday, November 8, 2012 at 10:00 a.m..

IT IS SO ORDERED.

October 25, 2012
Date

/s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge